

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JASON A. MAHE,

Case No. 3:23-cv-00096-MMD-CLB

Plaintiff,

ORDER

v.

F. FRAZIER, et al.,

Defendants.

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff was in the custody of the Nevada Department of Corrections when he initiated this case. However, Plaintiff is now in the custody of the Ohio Department of Rehabilitation and Correction (“ODRC”). Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on September 29, 2023. (ECF No. 6). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 6, 9). The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 12).

Plaintiff filed a motion to stay the case for 90 days because he is currently in the custody of the ODRC and does not have any of his legal boxes. (ECF No. 11 at 1). Plaintiff seeks a 90-day stay in order to acquire his legal work after his release and prove his claims. (*Id.*)

The Court denies Plaintiff’s motion to stay the case without prejudice. Plaintiff does not yet need to “prove” his case but instead needs to serve defendants. As described below, service must be perfected within 90 days of this order and does not require Plaintiff to prove his case during that time. Additionally, according to the ODRC inmate website,

1 Plaintiff's anticipated release date/parole eligibility date is February 7, 2024, which
2 provides Plaintiff with enough time to complete service after his release.

3 For the foregoing reasons, **IT IS ORDERED** that:

4 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is
5 **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In
6 the event that this action is dismissed, the full filing fee must still be paid pursuant to 28
7 U.S.C. § 1915(b)(2).

8 2. The movant herein is permitted to maintain this action to conclusion without
9 the necessity of prepayment of any additional fees or costs or the giving of security
10 therefor.

11 3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform
12 Act, the Ohio Department of Rehabilitation and Correction will forward payments from the
13 account of **Jason A. Mahe, #A641666** to the Clerk of the United States District Court,
14 District of Nevada, 20% of the preceding month's deposits (in months that the account
15 exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The Clerk of
16 the Court will send a copy of this order to the Finance Division of the Clerk's Office. The
17 Clerk will send a copy of this order to the attention of **Chief of Inmate Services for the**
18 **Lorain Correctional Institution**, 2075 South Avon-Belden Road, Grafton, OH 44044.

19 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
20 a copy of Plaintiff's complaint (ECF No. 7) on the Office of the Attorney General of the
21 State of Nevada by adding the Attorney General of the State of Nevada to the docket
22 sheet. This does not indicate acceptance of service.

23 5. Service must be perfected within ninety (90) days from the date of this order
24 pursuant to Fed. R. Civ. P. 4(m).

25 6. Subject to the findings of the screening order (ECF No. 6), within twenty-
26 one (21) days of the date of entry of this order, the Attorney General's Office shall file a
27 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it
28 accepts service; (b) the names of the defendants for whom it does not accept service,

1 and (c) the names of the defendants for whom it is filing the last-known-address
2 information under seal. As to any of the named defendants for whom the Attorney
3 General's Office cannot accept service, the Office shall file, under seal, but shall not serve
4 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such
5 information. If the last known address of the defendant(s) is a post office box, the Attorney
6 General's Office shall attempt to obtain and provide the last known physical address(es).

7 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
8 shall file a motion identifying the unserved defendant(s), requesting issuance of a
9 summons, and specifying a full name and address for the defendant(s). For the
10 defendant(s) as to which the Attorney General has not provided last-known-address
11 information, Plaintiff shall provide the full name and address for the defendant(s).

12 8. If the Attorney General accepts service of process for any named
13 defendant(s), such defendant(s) shall file and serve an answer or other response to the
14 complaint (ECF No. 7) within sixty (60) days from the date of this order.

15 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been
16 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
17 document submitted for consideration by the Court. If Plaintiff electronically files a
18 document with the Court's electronic-filing system, no certificate of service is required.
19 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
20 mails the document to the Court, Plaintiff shall include with the original document
21 submitted for filing a certificate stating the date that a true and correct copy of the
22 document was mailed to the defendants or counsel for the defendants. If counsel has
23 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
24 named in the notice of appearance, at the physical or electronic address stated therein.
25 The Court may disregard any document received by a district judge or magistrate judge
26 which has not been filed with the Clerk, and any document received by a district judge,
27 magistrate judge, or the Clerk which fails to include a certificate showing proper service
28 when required.

11. The motion to stay case (ECF No. 11) is **DENIED** without prejudice.

DATED THIS 3rd day of January 2024.

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